IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 38966 of 2003(L)

PETITIONER:

M/S. DREAM WORLD WATER PARK,
KANJIRAPPILLY, CHALAKUDY, THRISSUR DISTRICT -
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.K.PADMANABHAN

RESPONDENTS:
----

1. **THE SECRETARY, PARIYARAM GRAMA PANCHAYATH, P.O. PARIYARAM, THRISSUR.**

2. **STATE OF KERALA, REPRESENTED BY THE SECRETARY GOVERNMENT, DEPARTMENT OF LOCAL ADMINISTRATION, KERALA SECRETARIAT, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI.MANOJ for R2
BY ADV. SRI.M.C.GOPI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF ORDER NO.G.O.(RT) 391/2001/LAD DTD. 5/02/2001 ISSUED BY THE GOVT. OF KERALA.

EXT.P2: COPY OF LETTER NO.C3-384/98 DTD. 26/08/2003 ISSUED BY THE 1ST RESPONDENT.

EXT.P3: COPY OF REPRESENTATION DTD. 1/09/2003 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P4: COPY OF LETTER NO.C3-384/98 DTD. 18/09/2003 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P5: COPY OF PAPER NOTIFICATION IN MALAYALA MANORAMA DAILY DTD. 1/05/2003.

EXT.P6: COPY OF DEMAND NOTICE NO.C3.384/98 DTD. 14/11/2003 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P7: COPY OF INTERIM ORDER PASSED IN WP(C) NO.35257/2003 DTD. 11/11/2003 GRANTING STAY IN THE CASE.

EXT.P8: COPY OF LETTER NO.C3-359/06 DTD. 21/11/2006 ISSUED BY 1ST RESPONDENT TO THE PETITIONER.

EXT.P9; COPY OF REPRESENTATION DTD. 30/11/06 ISSUED BY PETITIONER TO THE 1ST RESPONDENT.

EXT.P10: COPY OF REPLY NO.C3-359/06 DTD. 21/12/2006 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

/TRUE COPY/

KSS

KURIAN JOSEPH, J.

W.P.(C). NO. 38966 OF 2003

Dated this the 21st day of March, 2007.

J U D G M E N T

This writ petition is filed with the following prayers.

i) To call for the records leading to the issuance of Exhibits P1, P2, P4 and P6 orders and quash the same by issue of a writ of certiorari or any other writ, order or direction.

ii) To issue a writ of mandamus or any other appropriate writ, order or direction restraining the respondent from enforcing the collection of entertainment tax from the petitioner's institution finding the imposition is ultra vires and without authority.

2. In view of the recent amendment, it cannot be contended that there is no provision under law to pay amusement tax. The surviving grievance is with regard to the alleged discrimination. According to the petitioner, an amusement park of similar magnitude in the neighbouring panchayath is made to suffer only Rs. 3 lakhs, the lowest tax, where as the petitioner is made to suffer Rs. 6 lakhs. Since no reasons whatsoever have been stated with regard to the contention taken by the petitioner, it is submitted that the petitioner is not in a position to pursue the grievance in appeal. Sri. M.C. Gopi, learned counsel for the panchayath submits that the levy of Rs. 3 lakhs is not in the first respondent panchayath. It is also submitted that in view of the compounding of the rates before the

Government, the present levy is not unreasonable. Since no reasons whatsoever are stated in the impugned order on the representation filed by the petitioner, there will be a direction to the first respondent to consider Exhibit P9 with notice to the petitioner and pass a reasoned order. This shall be done within a period of two months from date of receipt of a copy of this judgment. The petitioner will remit the admitted tax of Rs. 12 lakhs (Rupees twelve lakhs only) in four equal monthly installments starting from the month of April 2007. In case any installment is defaulted and payment is not made before 20th of every month, it will be open to the first respondent to take coercive steps against the petitioner.

This writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

smp